

[COUNSEL LISTED ON SIGNATURE PAGES]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Case No. C 04-4276 JSW

SHERI L. KENDALL, dba BALA HAIR
SALON, JAMES MASER, MAIZ HOLDING
COMPANY, dba PICANTE COCINA
RESTAURANT, on Behalf of Themselves and
All Others Similarly Situated,

Plaintiffs,

v.

VISA U.S.A. INC., MASTERCARD
INTERNATIONAL, INC., BANK OF
AMERICA, N.A., a subsidiary of BANK OF
AMERICA CORPORATION, WELLS FARGO
BANK, N.A., a subsidiary of WELLS FARGO
& COMPANY, U.S. BANK, N.A., a subsidiary
of U.S. BANCORP,

Defendants.

**NOTICE OF MOTION AND MOTION
OF DEFENDANT MASTERCARD
INTERNATIONAL INCORPORATED
PURSUANT TO FED. R. CIV. P.
12(b)(6)**

Date: July 8, 2005

Time: 9:00 a.m.

Place: Courtroom 2, 17th Floor

The Honorable Jeffrey S. White

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on July 8, 2005 at 9:00 a.m., or as soon thereafter
3 as the matter may be heard, in the Courtroom of the Honorable Jeffrey S. White, Courtroom 2 of
4 the United States District Court, Northern District of California, located at 450 Golden Gate
5 Avenue, San Francisco, California, Defendant MasterCard International Incorporated (incorrectly
6 identified by Plaintiffs as MasterCard International, Inc.) ("MasterCard") will, and hereby does,
7 move for an order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing with prejudice
8 and in its entirety the plaintiffs' First Amended Class Action Antitrust Complaint, filed on April
9 25, 2005.

10 This motion will be based upon this Notice; the Memorandum of Points and
11 Authorities in Support of the Motion of Defendant MasterCard International Incorporated
12 Pursuant to Fed. R. Civ. P. 12(b)(6) filed herewith; the record in this case; any argument
13 presented at or before the hearing on this matter; and all pleadings on file in this action.
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1 Dated: June 3, 2005

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3 Respectfully submitted,

4 By /s/ Debra J. Pearlstein

5 *Of Counsel*

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